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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/194,700 03/04/99 WIDLUND

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P O BOX 1404
ALEXANDRIA VA 22313-1404

EXAMINER

KIDWELL, M

ART UNIT

PAPER NUMBER

3761

DATE MAILED:

03/22/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/194,700

Applicant(s)

WIDLUND, URBAN

Examiner

Michele M. Kidwell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- 1) ☒ Responsive to communication(s) filed on 04 March 1999.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 March 1999 is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☒ All b) ☐ Some * c) ☐ None of the CERTIFIED copies of the priority documents have been:
1. ☒ received.
2. ☐ received in Application No. (Series Code / Serial Number) _____.
3. ☐ received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

Attachment(s)

- 14) ☒ Notice of References Cited (PTO-892)
- 15) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 16) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.

- 17) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 18) ☐ Notice of Informal Patent Application (PTO-152)
- 19) ☐ Other: _____.

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DETAILED ACTION

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because:

- Reference character "3" has been used to designate both a liquid impervious surface layer and a liquid impervious cover layer.
- Reference character "14" has been used to designate both a first layer and a hydrophobic layer.
- Reference character "16" has been used to designate both a second layer and a hydrophilic layer.
- Reference character "315" has been used to designate both the wetting region and the hump. ✓
- Reference character "315" and "317" have both been used to designate the hump. ✓
- Reference character "502" has been used to designate both a liquid pervious surface layer and a hydrophobic surface layer ✓
- Reference characters "109, 110" and "509,510" have both been used to designate side edges. ✓
- Reference character "504'" has been used to designate both the absorption layer and the second part. ✓
- Reference character "508" has been used to designate both the crotch portion and the front edge. ✓

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- Reference character "511" and "508" have both been used to designate the front edge. ✓

Correction is required.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description:

- Reference number "518" is mentioned on page 15, line 17. ✓
- Reference numbers "109" and "110" are mentioned on page 15, line 15. ✓
- Reference number "523" is mentioned on page 15, line 28. ✓

Correction is required.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the special attachment means and the girdle or element that may be used to keep the absorbent article in position against the body of the user while being detached from the panties as stated in claims 11 and 12 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Applicant is required to submit a proposed drawing correction in reply to this Office action. However, formal correction of the noted defect can be deferred until the application is allowed by the examiner.

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Specification

This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). An abstract on a separate sheet is required.

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the specification does not provide any support for claim 11 or 12.

Claim Objections

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 11 and 12 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

As to claim 11, the applicant fails to clarify what shape and rigidity will allow the article to stay in position against the body of the user. Further, the term "special attachment means" has not been defined in the specification.

With respect to claim 12, the applicant fails to provide any information pertaining to the type of element that may be used to keep the absorbent article in position against the body in the specification.

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Claims ¹⁻¹⁵~~1, 3, 6, 11, 12, and 14~~ are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1, 3, 4, 5 and 6, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d). Additionally, these claims are directed toward a range within a range, which is also an improper limitation.

Regarding claims 3, 4, 12 and 14, the phrase "or the like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 – 6 and 9 – 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buell (US 5,300,055).

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As to claim 1, Buell teaches an absorbent article such as a sanitary napkin comprising a liquid-pervious surface layer, a liquid-impervious surface layer, and an absorbent body enclosed between the two surfaces wherein the article further exhibits a wetting region characterized in that the liquid-pervious surface layer within the wetting region is constituted of hydrophilic material which is intended to be facing the user during use as set forth in col. 6, line 67 to col. 7, line 41.

Although Buell does not specifically teach that any remaining parts of the liquid-pervious surface layer is constituted of hydrophobic material, the invention does disclose that a hydrophobic topsheet may be made hydrophilic by treating the surface with a surfactant. It would then be a matter of design choice as to what sections of the hydrophobic topsheet to make hydrophilic based on the design and intended use of the absorbent article.

Regarding claim 2, Buell teaches an absorbent article that exhibits a hump projection from the liquid-pervious surface layer wherein the location of the hump on the article at least partially coincides with the wetting region as set forth in col. 19, lines 32 – 61.

With respect to claim 3, Buell discloses an absorbent article characterized in that the hydrophilic material in the liquid-pervious surface layer primarily consists of cotton fibers as set forth in col. 6, line 67 to col. 7, line 6.

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As to claim 4, Buell teaches an absorbent article characterized in that the hydrophilic material in the liquid-pervious surface layer primarily consists of hydrophilic, absorbent foam material as set forth in col. 6, line 67 to col. 7, line 45.

Regarding claim 5, Buell discloses an absorbent article characterized in that the hydrophobic material in the liquid-pervious surface layer primarily consists of polyester fibers as set forth in col. 6, line 67 to col. 7, line 6.

With reference to claim 6, Buell teaches an absorbent article characterized in that the hydrophobic material in the liquid-pervious surface layer primarily consists of a hydrophobic foam material as set forth in col. 6, line 67 to col. 7, line 6.

As to claim 9, Buell teaches an absorbent article characterized in that the hydrophilic material in the liquid-pervious surface layer is constituted of a hydrophobic material which has been rendered hydrophilic as set forth in col. 7, lines 26 – 41.

Regarding claim 10, the applicant fails to state the criticality of having the hydrophobic material in the liquid-pervious surface layer being constituted of a hydrophilic material which has been rendered hydrophobic. It has already been disclosed by the invention of Buell that the topsheet is comprised of hydrophobic material that may be rendered hydrophilic. It would be obvious to one having ordinary skill in the art that the initial hydrophobic material would provide the

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results as hydrophilic material that is rendered hydrophobic since the two materials are functionally equivalent materials.

Regarding claims 11 and 12, the applicant fails to support the information claimed in the specification. Therefore, it is unclear as to what the applicant intends to claim.

With regard to claim 11, as best understood by the examiner, the invention of Buell discloses an absorbent article characterized in that that article has such a shape and rigidity that it stays in position against the body of the user without the need for a special attachment means as set forth in col. 21, line 8 to col. 22, line 3.

With respect to claim 12, the applicant fails to disclose any criticality or unexpected results to be associated with keeping the absorbent article in position against the body of the user by means of a girdle which is detached from the panties. Furthermore, the words that are used in the claims have not been defined in the specification to require this limitation. On the contrary, the applicant does provide an attachment member in the form of a region of self adhesive glue arranged on the outside of the liquid-impervious cover layer in order to apply the absorbent article inside the panties of the user as stated on page 9 of the specification. Therefore, it is not clear as to what the applicant intends to claim. In light of the specification, the invention of Buell teaches an absorbent article that provides an adhesive fastener as set forth in col. 25, lines 25 – 28.

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With reference to claim 13, Buell teaches an absorbent article characterized in that the article comprises a shaping member which, by means of influence from the forces which the article is subjected to during use, has the ability to bring the wetting region into contact with the mucous membrane as set forth in col. 21. Lines 8 – 59.

As to claim 14, Buell teaches an absorbent article characterized in that the shaping member is constituted of folding notches as set forth in col. 21, line 60 to col. 22, line 57.

As to claim 15, the applicant fails to show where having a shaping member that is not constituted of an insert provides any unexpected results. It would then be a matter to design choice to either incorporate the shaping member into the layer or to have the shaping member provided in the form of an insert.

Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buell as applied to claims 1 – 6 and 9 – 15 above, and further in view of Nishino et al. (US 5,449,352).

As to claim 7, Nishino discloses an absorbent article characterized in that the liquid-pervious surface layer comprises a laminate of a first liquid-pervious, hydrophobic material layer arranged closest to the absorbent body, and a second liquid-pervious, hydrophilic material layer, of substantially the same extension as the wetting region of the article, arranged outside the first material layer and intended to bear on the body of the user in the wetting region during use as set

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forth in col. 6, line 63 to col. 7, line 21. It would be obvious to one of ordinary skill in the art to combine the device of Buell with the invention of Nishino in order to develop a more effective absorbent article.

As to claim 8, Nishino teaches an absorbent article meeting all of the limitations of claim 7 wherein the hydrophobic material layer exhibits an opening, of substantially the same extension as the wetting region of the article, through which the hydrophilic layer is exposed as set forth in col. 3, lines 22 – 29. It would be obvious to one of ordinary skill in the art to apply the concept of Nishino to the device of Buell in order to formulate an absorbent article with a higher absorbent capability.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michele M. Kidwell whose telephone number is 703-305-2941. The examiner can normally be reached on Monday thru Friday, 7:00am - 3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 703-308-2702. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3590 for regular communications and 703-305-3590 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

Michele Kidwell

Michele Kidwell
March 16, 2000

John G. Weiss

John G. Weiss
Supervisory Patent Examiner
Group 3700